

Review of an enduring guardianship appointment

An Enduring Guardian is someone you choose to make personal or lifestyle decisions on your behalf if you lose the capacity to make your own decisions at some time in the future. NCAT's Guardianship Division can review the appointment of an enduring guardian.

What is an enduring guardianship appointment?

An enduring guardianship appointment can be made by a person aged over 18 years appointing someone as their enduring guardian.

The enduring guardian can make personal or lifestyle decisions for the appointor when the appointor is no longer capable of doing this for him or herself.

For more information about appointing an enduring guardian visit the NSW Trustee & Guardian website www.tag.nsw.gov.au/wills/appoint-enduring-guardian.

Role of NCAT's Guardianship Division

NCAT can review an enduring guardianship appointment on its own motion, or at the request of anyone with a genuine concern for the welfare of the person.

NCAT can revoke the appointment or confirm it. It may also change the functions in the appointment or make a guardianship/financial management order.

Read our fact sheets 'Guardianship – What happens after the hearing' and 'Financial management – what happens after the hearing' for more information.

NCAT does not supervise enduring guardians. It will only act if a concerned person makes an application, or information is received which leads to a review of the enduring guardianship appointment.

What orders can NCAT make?

NCAT can make a variety of orders about enduring guardianship appointments including:

- Confirming the appointment, with or without varying the functions of the enduring guardian.
- Revoking the appointment of the enduring guardian, with or without making a guardianship/financial management order.

- Declaring that the appointment 'has effect'. This means that the appointor has lost the capacity to make decisions and the enduring guardian may use the appointment to make substitute decisions.
- Approving the resignation of an enduring guardian (if the appointor has lost capacity).
- Substituting an enduring guardian if the original enduring guardian has died, resigned or become incapacitated.

Applying for a review

The *Guardianship Act 1987* allows anyone with a genuine concern to apply to NCAT for a review of an enduring guardian appointment if they feel that an enduring guardian is not making appropriate decisions on the person's behalf.

The person who made the enduring guardianship appointment is called the 'appointor'. The person who was appointed is called an 'enduring guardian'.

How to lodge an application

To lodge an *Application to review an enduring guardianship appointment* form and attachments:

- **Post**
NSW Civil and Administrative Tribunal
Guardianship Division
PO Box K1026, Haymarket NSW 1240
- **Deliver in person**
Level 6 John Maddison Tower, 86-90 Goulburn Street, Sydney NSW 2000

There is no fee for lodging a Guardianship Division application.

Your responsibilities as applicant

As the applicant you have responsibilities beyond completing and lodging the form. You must:

- Advise the appointor that you are making an application about them.



- Provide details of all the people who have an interest in the application (even if they disagree with it).
- Keep NCAT informed if the appointor's situation changes while your application is being considered.
- Give the appointor and the other parties a copy of your application and any supporting documents.
- Attend the hearing and arrange for the appointor to attend, if possible.

Who are the parties?

Anyone who is a party to your application is entitled under the *Guardianship Act 1987* to receive a copy of your application.

The following people are parties to your application:

- You, the applicant
- The appointor
- The appointor's appointed enduring guardian/s
- The appointor's spouse, de factor spouse or partner (if any)
- The appointor's unpaid carer (if any)
- NSW Public Guardian
- NSW Trustee and Guardian
- Any person NCAT joins as a party

What happens next?

NCAT will send you and other parties a notice of hearing with the date, time and place of hearing.

If you need further information about making an application, contact NCAT's Guardianship Division.

Contact NCAT

1300 006 228 | www.ncat.nsw.gov.au

Interpreter Service (TIS) 13 14 50

National Relay Service for TTY users 13 36 77

For more information and assistance visit the NCAT website or contact NCAT's Guardianship Division on (02) 9556 7600 or 1300 006 228.